

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LACHANCE L. THOMAS,

Petitioner,

v.

T. ALLEN,

Respondent.

Case No. 1:23-cv-00690-EPG-HC

ORDER STAYING PROCEEDINGS AND
DIRECTING PETITIONER TO FILE
STATUS UPDATES

Petitioner Lachance L. Thomas is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On August 8, 2023, the Court granted Petitioner's motion to stay the proceedings pursuant to Kelly v. Small, 315 F.3d 1063 (9th Cir. 2002). (ECF No. 18.) Petitioner has filed a second amended petition ("SAP") containing only exhausted claims,¹ (ECF No. 19), which satisfies the first requirement for a Kelly stay.

Accordingly, IT IS HEREBY ORDERED that:

1. The proceedings are STAYED pending exhaustion of state remedies;

¹ The SAP consists of a § 2254 form with references to "See Attached (Exhibit A)." (ECF No. 19 at 4–5.) The exhibit, in turn, consists of copies of various briefs and court documents from Petitioner's direct appeal. The Court will construe the SAP as containing only the exhausted claims set forth in the Court's August 8, 2023 order. See United States v. Qazi, 975 F.3d 989, 992–93 (9th Cir. 2020) ("It is an entrenched principle that pro se filings however inartfully pleaded are held to less stringent standards than formal pleadings drafted by lawyers. We are specifically directed to construe pro se pleadings liberally. This duty applies equally to pro se motions and with special force to filings from pro se inmates." (internal quotation marks and citations omitted)).

2. Petitioner is DIRECTED to file a status report within thirty (30) days of the date of service of this order and every ninety (90) days thereafter; and

3. Within thirty (30) days following the final order of the state courts, Petitioner shall notify the Court that the unexhausted claims have been exhausted and request that the stay be lifted and the case proceed.

Petitioner is forewarned that failure to comply with this order will result in the Court vacating the stay.

IT IS SO ORDERED.

Dated: November 8, 2023

/s/ Eric P. Grogan
UNITED STATES MAGISTRATE JUDGE